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September 24, 1998

VIA HAND DELIVERY

EX PARTE OR LATE FILING

Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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SEP 24 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 96-98 — Reciprocal Compensation
Written Ex Parte Presentation

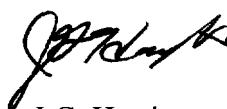
Dear Ms. Salas:

Attached is a letter to the Chairman filed today in connection with the above-referenced proceeding responding to a recent letter by Edward Young of Bell Atlantic concerning reciprocal compensation.

Pursuant to Section 1.1206(b) of the Commission's rules, an original and two copies of this letter are being submitted to the Secretary's office for the above-captioned docket, and copies are being provided to each Commissioner and the Commission staff indicated below.

Please inform me if any question should arise in connection with this filing.

Respectfully submitted,



J.G. Harrington
Counsel for Cox Communications, Inc.

JGH/vll

cc (w/att.):	Hon. Susan Ness	Thomas Power	Kathryn Brown
	Hon. Michael Powell	James Casserly	James Schlichting
	Hon. Harold Furchtgott-Roth	Kevin Martin	Donald Stockdale
	Hon. Gloria Tristani	Kyle Dixon	Jane Jackson
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cc (w/o att.): Hon. William Kennard

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Alexander V. Netchvolodoff
Vice President of Public Policy

September 24, 1998

The Honorable William E. Kennard
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Re: Reciprocal Compensation for Calls to Internet Service Providers
CC Docket 96-98
Written Ex Parte Communication

Dear Chairman Kennard:

This is in response to the September 16, 1998 letter to you from Edward Young of Bell Atlantic. In his surprising effort to deny that Bell Atlantic has ever conceded that traffic directed to Internet service providers ("ISPs") might be local in nature, Mr. Young literally rewrites history, including the transcripts of the Virginia interconnection arbitration between Cox and Bell Atlantic and Bell Atlantic's own FCC filings.

As Cox previously described, prior to Bell Atlantic's conclusion that competitive local exchange carriers will in fact gain consequential revenues from their service to ISPs, Bell Atlantic never claimed that otherwise local calls to ISPs would not be treated as local calls or subject to reciprocal compensation. As the transcripts of the Cox-Bell Atlantic arbitration demonstrate, at that time Bell Atlantic plainly considered calls to ISPs to be subject to reciprocal compensation. In fact, Bell Atlantic used calls to ISPs as its prime example of how imbalances in local traffic could occur as part of its opposition to a bill and keep regime.

One Bell Atlantic witness described the likelihood of imbalance in the following way:

What I was saying was, that some of the competitive carriers in the State — in the region, are building business plans around Internet service providers. When you provide Internet service that way, all of the calls to the Internet provider are incoming calls, so they're all terminating on your, if you will, switch. And for that Internet customer, there are no outgoing calls at all . . . Clearly an imbalance.^{1/}

^{1/} *Petition of Cox Fibernet Commercial Services, Inc. for Arbitration of Unresolved Issues from Interconnection Negotiations with Bell Atlantic-Virginia, Inc. pursuant to § 252 of the Telecommunications Act of 1996, Case Nos. PUC960100, PUC960103, PUC960104, PUC960105 and PUC960113, Testimony of Bell Atlantic Witness Eichenlaub, Tr. at 630.*

The same witness, in describing how imbalances in local traffic occurred, characterized traffic generated by calls to ISPs as “the most telling difference in balance for the CLECs whose data I’ve looked at.”^{2/}

Similarly, Bell Atlantic questioned Cox’s witnesses regarding the effect of Internet traffic on the balance of local traffic:

Q. I believe you would agree that other businesses, such as Internet access providers, or other customer-service related businesses, will receive many more calls than they originate.

A. Yes.

Q. And a CLEC whose only customers were such businesses would also not have traffic that is in balance.

A. That is true, but the CLEC wouldn’t have a business.^{3/}

These are not isolated examples; rather, Bell Atlantic treated calls to ISPs as local calls subject to reciprocal compensation throughout the arbitration proceeding and, as described above, lumped them together with calls to “other customer-service related businesses.” This assumption was central to both the Bell Atlantic testimony and the Bell Atlantic cross-examination of Cox’s witness. If calls to ISPs were not treated as local calls subject to reciprocal compensation, then they could not cause an “imbalance” in local traffic.^{4/} Thus, it is apparent that Bell Atlantic, at the time of the arbitration, believed that local calls to ISPs were subject to reciprocal compensation. Any statement to the contrary by Bell Atlantic is an attempt to ignore the documentary record.

^{2/} *Id.* at 633.

^{3/} *Id.*, Cross-examination of Cox witness Collins by Zacharia, Tr. at 914.

^{4/} Bell Atlantic’s claim that the Cox arbitration did not formally consider the question of what traffic would be local is irrelevant. What is relevant is that Bell Atlantic, in an effort to avoid “bill and keep” reciprocal compensation, claimed that traffic to ISPs was local traffic that would cause a traffic imbalance and that, in Bell Atlantic’s view, would require monetary compensation under the reciprocal compensation regime.

Hon. William E. Kennard

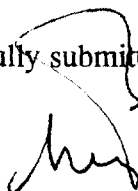
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Bell Atlantic also believed that calls to Internet service providers were local calls in May of 1997, when it filed an amendment to its CEI plan for Internet access service. That amendment explained that “[f]or dial-up access, the end user will place a local call to the Bell Atlantic Internet hub site,” and that “Bell Atlantic’s vendor will subscribe to local telephone services . . . to receive the call.”^{5/} This filing is a matter of record before the Commission and, again, plainly indicates that Bell Atlantic believed that calls to its affiliated ISP would be treated as local calls.

Finally, the only parties attempting to game the system in this matter are the incumbent local exchange carriers. After years of asserting that there are substantial costs associated with terminating traffic, they now wish to rewrite history by claiming that CLECs reap a substantial “windfall” from terminating ISP traffic. ILECs are remarkably silent on how they would propose to compensate carriers for the cost of transporting traffic to ISPs. Adopting the ILEC position on this matter not only would unfairly penalize CLECs that depended on the stability of the Commission’s regulatory structure, but would reward the ILECs for their duplicity.

Respectfully submitted,



Alexander V. Netchvolodoff

^{5/} Amendment to Bell Atlantic CEI Plan to Expand Service Following Merger with NYNEX, CCB Pol. 96-09, filed May 5, 1997, at 3.